

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

MCLEOD USA TELECOMMUNICATIONS  
SERVICES, INC.

V

No. 07-0100  
STATUS

ILLINOIS BELL TELEPHONE  
COMPANY

Complaint pursuant to Sections 10-108 and 4-101 of the Public Utilities Act for failure to comply with Orders in ICC Dockets 05-0154, 05-0156 and 05-0174 (cons.) and 05-0442 and with the terms of the interconnection agreement between the parties, as amended; for demanding unjust and unreasonable prices, terms and conditions, in violation of Sections 9-250 and 13-101 of the Public Utilities Act; and for other relief.

Chicago, Illinois

March 6, 2007

Met pursuant to notice at 11:00 a.m.

BEFORE :

MR. TERRANCE HILLIARD, Administrative Law Judge.

1 APPEARANCES :

2

MR. OWEN E. MacBRIDE  
3 6600 Sears Tower  
Chicago, Illinois 60606  
4 appeared for Complainant;

5

MR. KARL B. ANDERSON  
6 225 West Randolph Street  
Floor 25-D  
7 Chicago, Illinois 60601  
appeared for Respondent;

8

9 MR. MATTHEW L. HARVEY and  
MS. STEFANIE R. GLOVER  
10 160 North LaSalle Street  
Chicago, Illinois 60601  
11 appeared for Staff of the  
Commission.

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SULLIVAN REPORTING COMPANY, by  
20 Teresann B. Giorgi, CSR

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1 JUDGE HILLIARD: On behalf of the Illinois  
2 Commerce Commission, I call Docket 07-0100,  
3 McLeod USA Telecommunications Services, Inc., versus  
4 Illinois Bell Telephone Company.

5 Will the parties identify themselves  
6 for the record, please.

7 MR. MacBRIDE: Appearing on behalf of McLeod USA  
8 Telecommunications Services, Inc., this is Owen  
9 MacBride, 6600 Sears Tower, Chicago, Illinois 60606.

10 MR. ANDERSON: Appearing on behalf of Illinois  
11 Bell Telephone Company, Karl B. Anderson, 225 West  
12 Randolph, Floor 25-D, 60601.

13 MR. HARVEY: Appearing for the Staff of the  
14 Illinois Commerce Commission, Matthew L. Harvey and  
15 Stefanie R. Glover, 160 North LaSalle Street,  
16 Suite C-800, Chicago, Illinois 60601.

17 JUDGE HILLIARD: Anybody else want to file an  
18 appearance, or let their appearance be of record?

19 (No response.)

20 JUDGE HILLIARD: If not, what's the first order  
21 of business here?

22 MR. MacBRIDE: To discuss the schedule.

1 JUDGE HILLIARD: Okay.

2 MR. MacBRIDE: On behalf of the Complainant, we  
3 believe the complaint should be answered and that  
4 requires a ruling from the Judge. And we'll leave  
5 it to Illinois Bell to indicate a date by which it  
6 would answer the complaint, assuming that's  
7 required, and then we would propose a date after  
8 that for testimony, Petitioner's testimony after --  
9 excuse me, Complainant's testimony after we receive  
10 the answer.

11 JUDGE HILLIARD: I've looked over the complaint  
12 and I think an answer would be appropriate.

13 How long would you need, Mr. Anderson?

14 MR. ANDERSON: The rules provide for three  
15 weeks, but I would propose two weeks.

16 MR. HARVEY: That would put us on the 20th of  
17 March.

18 JUDGE HILLIARD: Okay.

19 Is that satisfactory? You can do it  
20 by the 20th?

21 MR. ANDERSON: Yes.

22 MR. HARVEY: Staff is fine with that.

1 JUDGE HILLIARD: You don't need discovery? You  
2 can go right into testimony?

3 MR. MacBRIDE: I would like the opportunity for  
4 discovery, just based on what might appear in the  
5 answer. So, what I would suggest is, if we had a  
6 week to 10 days to get data requests out. And,  
7 then, I'll leave it to Mr. Anderson if he wants to  
8 have 28 days to respond, or a shorter time. Then  
9 what I would propose, then, because we'd be working  
10 on our testimony, if our testimony can be due, say,  
11 3 weeks after the discovery responses are due,  
12 so. . .

13 JUDGE HILLIARD: So, you're going to get your  
14 DRs out by 3-30?

15 MR. MacBRIDE: Yes.

16 MR. HARVEY: That sounds like Staff can do that.  
17 We might have modest discovery. And depending upon  
18 the answer, we can't, at this point, really be  
19 confident which party would be the -- discovery  
20 would be directed to.

21 JUDGE HILLIARD: And responses?

22 MR. ANDERSON: Well, without knowing the extent

1 of the discovery, it's hard to give a firm date on  
2 when we would respond. Our normal practice in these  
3 types of proceedings is to attempt to respond within  
4 two weeks, but, you know, the rules do provide us  
5 with 28 days, even though we would not intend to  
6 take the 28 days, if it's feasible to answer earlier  
7 than that.

8                   So, I guess, I would not like to be  
9 bound to a fixed deadline for responding, short of  
10 28 days.

11       JUDGE HILLIARD: Why don't we do the 28 days,  
12 then?

13       MR. HARVEY: I get April 27.

14       MR. MacBRIDE: Right.

15       JUDGE HILLIARD: All right. So, responses to  
16 DRS will be due April 27th.

17                   And first round of testimony?

18       MR. ANDERSON: Before we go on. Do you have any  
19 idea how many -- how much discovery you may have?

20       MR. MacBRIDE: Right now, you know, little or  
21 none. It's more to cover myself in case you say  
22 something in the answer.

1       MR. ANDERSON: Well, let's go on and see what  
2 the schedule works out. I'm just anticipating we  
3 may run into -- the schedule sounds like it's  
4 extending out a little beyond what I had anticipated  
5 in terms of testimony filings.

6       JUDGE HILLIARD: Are you concerned about getting  
7 this done quickly?

8       MR. ANDERSON: I'm concerned about the schedules  
9 over the summer. Why don't we go through the  
10 schedule and see when the hearings might fall and,  
11 perhaps, adjust discovery.

12       JUDGE HILLIARD: All right.

13       MR. MacBRIDE: Well, we can have the direct  
14 testimony on May 18th. That would be three weeks  
15 after the discovery date.

16       MR. HARVEY: Staff is sort of perplexed on  
17 what -- it doesn't seem like there's a whole lot of  
18 factual issues here.

19       MR. MacBRIDE: Well, that may depend on the  
20 answer. There's a lot of facts alleged in the  
21 complaint.

22       MR. HARVEY: Fair enough.



1                   So, what date are we talking about  
2 here?

3       MR. MacBRIDE:   May 18th.

4       MR. HARVEY:    4-18.   And are we going to do  
5 this --

6       MR. MacBRIDE:   5-18.

7       MR. HARVEY:    5-18, you're absolutely right.

8                   And, I guess, how are we going to  
9 organize the testimony?   Are we going to do it  
10 simultaneously, because I don't think that's very  
11 appropriate.

12       MR. MacBRIDE:   No.   I assume this would be  
13 Complainant's direct testimony.

14       MR. HARVEY:    Okay.

15       MR. ANDERSON:   We can respond --

16       MR. MacBRIDE:   Do you want to respond together,  
17 or do you want to respond on different dates?   Do  
18 you want to respond after?

19       MR. HARVEY:    Well, that would sort of slow down  
20 the schedule if we had three filing dates.   I'm just  
21 trying to think here.

22       MR. ANDERSON:   I guess, we would anticipate that

1 we may want to reserve the right to respond to  
2 Staff. I understand as the Complainant, McLeod may  
3 wish to go last with rebuttal. But, if Staff is  
4 going to be filing testimony, we might want to have  
5 a date we'll respond to the Staff's testimony.

6 MR. HARVEY: I sort of can see that.

7 Let's try to think here.

8 MR. MacBRIDE: I'm indifferent to the order in  
9 which Staff and Illinois Bell, between themselves --

10 MR. HARVEY: We can do it simultaneously.

11 MR. MacBRIDE: We'll have the last rebuttal.

12 MR. HARVEY: Maybe the thing to do is to give us  
13 a short date and then Karl can shoot back at us on  
14 whatever the final date is. I mean, because I don't  
15 think we have that much to say that we won't get in  
16 our direct.

17 MR. ANDERSON: You want to go before our  
18 testimony?

19 MR. HARVEY: No, after yours, but you would get  
20 a chance, like, on whatever date --

21 MR. ANDERSON: Right. Right. That makes sense.

22 MR. HARVEY: I mean, you both get a chance to

1 take a pop shot at Staff on the same day, which is  
2 traditional.

3 JUDGE HILLIARD: The ball is in your court,  
4 then, I guess, Karl.

5 MR. ANDERSON: Right.

6 Let's say June 15th, that would be  
7 four weeks -- maybe the 22nd, because we may have  
8 discovery, also. And, again, we would try to get  
9 that out soon, so that McLeod could respond in a  
10 timely manner.

11 MR. HARVEY: 6-29 -- that's a long weekend,  
12 anyway.

13 JUDGE HILLIARD: Are we talking Staff direct, or  
14 is this --

15 MR. HARVEY: Staff direct is fine, might as well  
16 be.

17 JUDGE HILLIARD: 6-29?

18 MR. HARVEY: 6-29.

19 JUDGE HILLIARD: And, then, what, rebuttal from  
20 Complainant and IBT?

21 MR. ANDERSON: Right.

22 MR. MacBRIDE: Rebuttal from you. And, then,

1 we'll go last.

2 MR. HARVEY: Yeah, you're right. Okay, whatever  
3 you guys want to do at that point. I don't think we  
4 need more than one round here.

5 MR. ANDERSON: How much time do you need for  
6 rebuttal for Staff?

7 MR. MacBRIDE: I'm sorry, are you asking me?

8 MR. ANDERSON: Yeah.

9 MR. MacBRIDE: Well, do you want another -- if  
10 you rebut to Staff, we can have rebuttal back --

11 THE REPORTER: I'm sorry, I can't hear.

12 JUDGE HILLIARD: You're going to have to speak  
13 up for the reporter? When you say something, you  
14 want to have it recorded.

15 MR. ANDERSON: Are we doing this all on the  
16 record? We should have gone off the record to  
17 discuss the schedule.

18 JUDGE HILLIARD: You know, that's probably a  
19 good idea. I just didn't think of it. We can stop  
20 here.

21 (Whereupon, a discussion  
22 was had off the record.)

1 JUDGE HILLIARD: The parties have agreed on a  
2 tentative schedule.

3 IBT file its answer on or before March  
4 20th.

5 The Complainants have until March 30th  
6 to file DRs.

7 Responses to DRs will be due on or  
8 before April 27th.

9 The Complainants' direct testimony  
10 will be due on or before May 18th.

11 Illinois Bell's direct testimony will  
12 be due by June 26th.

13 Staff's direct by July 6th.

14 Illinois Bell's rebuttal by 7-16.

15 MR. HARVEY: That was the 18th, your Honor.

16 JUDGE HILLIARD: 18th? I'm sorry.

17 Rebuttal from McLeod by July 31.

18 MR. MacBRIDE: Correct.

19 JUDGE HILLIARD: And hearing dates of 9-11 and  
20 9-12.

21 And the parties will endeavor to come  
22 up with a protective order that you can forward to

1 me to have entered.

2 MS. GLOVER: Your Honor, that March 30th  
3 discovery date was for all the parties, not just  
4 complainants', is that right?

5 JUDGE HILLIARD: All right. Fine.

6 MR. ANDERSON: Well, I don't think it's for us,  
7 necessarily, although we may have some discovery.  
8 But, I would anticipate most of our discovery would  
9 come after McLeod's testimony.

10 MS. GLOVER: Okay.

11 MR. MacBRIDE: Discovery directed to the answer.

12 JUDGE HILLIARD: And if you want to build on a  
13 date for additional discovery requests after some of  
14 the testimony dates, that's fine, but if you just  
15 want to do it, that's okay with me, too.

16 MR. MacBRIDE: I think we've got enough time  
17 built in.

18 JUDGE HILLIARD: Okay. I guess we'll be --  
19 unless something comes up that you need to work with  
20 me on, we'll be adjourned until September 11th.

21 MR. HARVEY: Thank you very much, your Honor.

22 MR. MacBRIDE: Thank you.

1 JUDGE HILLIARD: As I think about it here, since  
2 we have a lot of time here between the end of  
3 testimony, if there's any -- maybe build a pretrial  
4 motion schedule in. So, maybe pretrial motions by,  
5 say, 8-15?

6 MR. ANDERSON: That's going to be a problem for  
7 me. I'm basically gone the first two weeks in  
8 August.

9 You mean just a deadline for any  
10 pretrial motions to be part of --

11 JUDGE HILLIARD: Strike the testimony, that kind  
12 of thing.

13 MR. ANDERSON: You didn't anticipate any kind of  
14 pretrial brief or anything like that.

15 JUDGE HILLIARD: No.

16 Give me a date. Give you a week from  
17 when you get back?

18 MR. ANDERSON: Sure.

19 JUDGE HILLIARD: So, pretrial motions by 8-22.

20 MR. HARVEY: Okay.

21 JUDGE HILLIARD: And responses by 8-29.

22 Do you need a rebuttal?

1       MR. ANDERSON:   Why don't we just work in a reply  
2   date.

3       MR. HARVEY:    9-5?

4       MR. MacBRIDE:   Yeah.

5       MR. ANDERSON:   Yeah, 9-5.

6       JUDGE HILLIARD:   Okay.   Then, in addition to the  
7   announced schedule, any pretrial motions will be due  
8   on or before August 22nd.

9                        Responses to the motion by August  
10   29th.

11                       And any replies on or before  
12   September 5th.

13                       And, then, we'll be adjourned until  
14   the 11th.

15       MR. HARVEY:    Thank you very much, your Honor.

16       MR. MacBRIDE:   Thank you.

17       MR. ANDERSON:   Thank you.

18                       (Whereupon, the above-entitled  
19                       matter was continued to  
20                       September 11th, 2007.)

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